

DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Board of Commissioners of the District of Columbia Housing Authority (DCHA), gives notice of the adoption on an emergency basis of an amendment of Title 14 DCMR by adding a new Chapter 96, "Public Housing: Barring Policy."

The new chapter will be an instrumental tool in providing safe and secure communities for DCHA residents. The new chapter will permit unauthorized non-resident persons to be barred from DCHA properties and permit any individual who violates a Bar Notice to be arrested for unlawful entry. This action is based on DCHA's statutory authority, found at D.C. Code § 6-203, to bar unauthorized persons from DCHA property.

The emergency action is based on the need to protect the DCHA's residents from unauthorized persons entering DCHA property to engage in criminal activity or otherwise disturb the DCHA's residents' right to quiet enjoyment of their tenancy while the agency obtains input from various stakeholder groups including resident. This rulemaking is necessary for the immediate protection of the public safety and justifies emergency action.

A new chapter related to barring was previously adopted by the Board of Commissioners and published in the D.C. Register on July 18, 2003 as both emergency and proposed regulations. DCHA has received substantive comments in response to its earlier publication which are reflected in the provisions of the barring policy adopted on October 8, 2003. DCHA continues to obtain comments in order to draft a final rule, but until a final rule can be prepared with adequate input, the need to protect our residents has not lessened and therefore DCHA has adopted the emergency rules published herein.

This emergency rule is to be effective with its publication in the D.C. Register on November 7, 2003 and will expire on March 6, 2004, or upon publication of a Notice of Final Rulemaking in the D.C. Register, whichever occurs first.

Amendment: the new Chapter 96 is to read as follows:

"CHAPTER 96 PUBLIC HOUSING: BARRING POLICY**Secs.****9600 BARRING POLICY**

- 9600.1 The DCHA's mission is to provide properties that are safe, decent, and sanitary dwelling units in which families may live. In addition, DCHA has the right and duty to refuse entrance or access to its property to any unauthorized person as defined in § 9600.2.

- 9600.2 No person may enter upon DCHA property unless that person is authorized to be on the property. The only persons authorized to be on DCHA property are residents of the property, members of the resident's household, resident's guests except as provided in § 9600.4, and persons employed by or doing business with DCHA at the property.
- 9600.3 Any person not identified in § 9600.2 as an authorized person may be subject to the issuance of a Bar Notice.
- 9600.4 Any resident's guest who engages in any activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents or DCHA employees or violates DCHA policy is an unauthorized person.
- 9600.5 For any activity by a resident's guest that violates § 9600.4, a Temporary or Permanent Bar Notice may be issued to the unauthorized person as follows:
- (1) Temporary Bar Notices shall remain in effect for the first infraction for sixty (60) days, second infraction for six (6) months, and third infraction for one (1) year for the following infractions:
 - (a) Entering DCHA property without presenting identification or properly signing the visitor log;
 - (b) Using DCHA property or other dwelling units other than the location identified on the guest pass or visitor log;
 - (c) Unauthorized occupant residing in a dwelling unit;
 - (d) Disruptive conduct while on DCHA property.
 - (2) Permanent Bar Notices shall be remain in effect for five (5) years for all other activities that violate § 9600.4 including, but not be limited to, criminal or other activity involving drugs, violent activity, weapons, theft, assault, eviction from DCHA property for criminal or illegal activity, damage to property, and serious or repeated violations of DCHA policy.
- 9600.6 Bar Notices shall only be issued to bar unauthorized persons under §§ 9600.2 or 9600.4 from DCHA property. They may not be issued to bar persons from public streets or sidewalks, or private property adjoining DCHA property. The Bar Notice does not have to be served on DCHA property.

- 9600.7 Personal service or attempted service in writing of Bar Notices shall be made to each person barred from DCHA property. The Bar Notice shall reflect the method and manner of service upon the barred person.
- 9600.8 Bar Notices shall only be issued by the following persons:
- (a) Members of the DCHA Office of Public Safety including sworn officers and special police officers;
 - (b) Members of the Metropolitan Police Department;
 - (c) Members of cooperative law enforcement task forces as may be authorized by the Chief of DCHA Office of Public Safety; and
 - (d) Private security providers contracted by DCHA or DCHA's agent.
- 9600.9 The issuance of a Bar Notice requires the barred person to immediately leave the DCHA property from which the person was barred and not return for the period the Bar Notice remains in effect.
- 9600.10 Should the barred person fail to leave the DCHA property after the issuance of the Bar Notice, or later returns to the DCHA property noted on the Bar Notice at any time while the Bar Notice is in effect, the person may be arrested for "unlawful entry" pursuant to D.C. Code § 22-3302 (2001 ed.) as amended."

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than sixty (60) days after the date of publication of this notice in the D.C. Register. Comments should be filed with Office of the General Counsel, District of Columbia Housing Authority, 1133 North Capitol Street, NE, Suite 210, Washington, DC 20002-7599. Copies of these proposed rules may be obtained from the DCHA at the same address.